



Boston City Council

Committee on Government Operations

Maureen Feeney, *Chair*

May 19, 2009

Dear Councillors:

The Committee on Government Operations held a hearing to discuss three separate home rule petitions concerning evictions on certain foreclosed residential property in the city of Boston (Docket# 0395), a moratorium on foreclosures in the city of Boston (Docket #0396) and a foreclosure mediation program in the city of Boston (Docket #0397). These matters were sponsored by Councillor Turner, referred to this Committee on Wednesday, March 11, 2009, and heard at a public hearing on Tuesday, May 5, 2009 at which public comment was taken.

At the hearing several individuals from the administration, MAAPL, GBLS and citizens and housing advocates testified in support of all three petitions. Docket #0395 seeks to provide tenant protection against eviction as a result of foreclosure. This home rule petition would prevent a foreclosing owner from evicting a tenant without just cause. Some testifiers urged amending the home rule to include eviction protection for former owner occupants. An additional amendment that would allow foreclosing owners to evict if a purchase and sale agreement was executed with someone who intended to occupy the home was raised.

Several individuals voiced support for these suggestions in light of the increasing need for housing stabilization, citing that homeowners and tenants are being treated similarly under the law for determining legal tenancy status purposes. As such, the proposed new draft would afford the same protections to tenants and former owner occupants. Former owner occupants would pay the reasonable rent as established by HUD and there is an additional just cause reason for evicting if the aforementioned purchase and sale agreement is executed.

Docket #0396 would impose a 180-day moratorium on foreclosures of any home with four or less separate households occupied by the mortgagor. The moratorium is limited in scope and would only prevent foreclosures for these types of property for a limited period if the mortgage in question was presumptively unfair as defined. This would seek to grant mortgagors time to re-negotiate these bad loans and urge mortgagees to find equitable solutions.

Docket #0397 would establish a foreclosure mediation program, which would apply to a dwelling with four or less households occupied by the mortgagor. City designated mediators would work with the mortgagor and mortgagee to try and prevent foreclosures. If no agreement is reached, the foreclosure proceeding would resume after the set period of time. Failure to comply with this program would be a defense to foreclosure. The original draft designated the Boston Rental Housing Resource center as the administering agency, but in light of administration testimony at the hearing this designation has been left open. The proposed new draft would allow the administration to properly review its departments' capabilities for the program upon passage.

All three of these proposals are an admirable approach to tackling a complex issue. Hopefully these three initiatives will work jointly to solve an escalating housing crisis within the City of Boston.

By the Chair of the Committee on Government Operations, to which the following were referred:

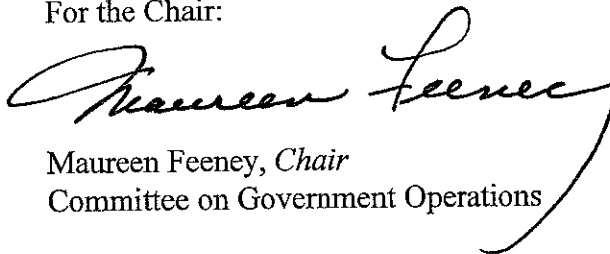
Docket #0395 Home Rule Petition: Evictions on certain foreclosed residential property in the city of Boston;

Docket #0397 Home Rule Petition: A foreclosure mediation program in the city of Boston; and

Docket #0396 Home Rule Petition: A moratorium on foreclosures in the city of Boston

based on information presented at the hearing and public comment gathered by the Committee and having considered the same, respectfully recommends that **dockets #0395 and #0397 ought to pass in new drafts and docket #0396 ought to pass.**

For the Chair:

A handwritten signature in black ink, appearing to read "Maureen Feeney", with a long, sweeping flourish extending from the end of the name.

Maureen Feeney, *Chair*
Committee on Government Operations

Offered by Councillor **CHUCK TURNER**, Ross, Flaherty, Yancey, LaMattina, Linehan, Yoon, Feeney, Conslavo, Ciommo



CITY OF BOSTON IN CITY COUNCIL

HOME RULE PETITION

ORDERED, That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

PETITION FOR A SPECIAL LAW RE: A MORATORIUM ON FORECLOSURES IN THE CITY OF BOSTON

Section 1.

Notwithstanding the provisions of any general or special law to the contrary, no foreclosures shall be conducted on any residential real estate located in the City of Boston having a dwelling house with accommodations for four or less separate households and occupied in whole or in part by an obligor on the mortgage debt for a period of one hundred and eighty (180) days after the effective date of this act if the mortgage subject to foreclosure is presumptively unfair by virtue of having one of the following:

- (a) an adjustable rate loan with an introductory period of three years or less; and a debt-to-income ratio in excess of 50 percent under the fully indexed rate; and the loan-to-value ratio is 97 percent or greater, or the loan carries substantial pre-payment penalties or pre-payment penalties extend beyond the introductory period;
- (b) interest only loans;
- (c) loans with high points, fees or interest in violation of the Predatory Home Loan Practices Act, M.G.L. c. 183C §2.

Neither the Suffolk Register of Deeds nor assistant recorder of the Boston Land Court shall accept for recording or filing for registration any foreclosure deed pursuant to a foreclosure conducted in violation of this act during said one hundred and eighty (180) day period.

During the one hundred and eighty (180) day moratorium period, mortgage holders shall provide an authorized representative to enter into good faith negotiations with borrowers who so request, to modify the terms of their mortgages, including, reducing the principal, lowering the interest rate, eliminating pre-payment penalties, and other fees and costs so that qualified homeowners can obtain affordable mortgages that will allow them to stay in their homes. No fees or penalties shall accrue during the moratorium period.

Section 2.

The provisions of this act shall take effect upon its passage.

ADOPTED

CITY CLERK

CHAIR

WILLIAM O'NEILL
RESPECTFULLY REQUESTS THAT THE MAYOR
THE COMMITTEE CHAIR

SO

IN CITY COUNCIL
CITY OF BOSTON